IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 15959 of 2006
Date of Decision: March 1, 2007

Sham Singh and others ..... Petitioners

Versus

State of Haryana and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mr. Justice R.S. Madan

Present: Mr. R.K.Chopra, Mr. R.C.Chatrath, Mr. Vikas Chatrath and
Ms. Alka Chatrath, Advocates
for the petitioners.

Mr. Anmol Rattan Sidhu, Addl. A.G. Haryana with
Mr. Deepak Jindal, Advocate.

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ASHUTOSH MOHUNTA, J. (Oral)

This judgment shall dispose of C.W.P. Nos. 15959, 15208, 16212, 17297, 15575, 15554, 15640, 17528, 15462, 14923, 14926, 19509, 20148, 20300, 20729, 18219, 18565, 18738, 18919, 18938, 19632, 19935, 19669, 19671, 15229, 16012, 15924, 16026, 16388, 16508, 17162, 16316, 16835, 17337, 17193, 18823, 19393, 19353, 19347, 17380, 19809 and 20795of 2006 as well as C.W.P. Nos. 59, 367 and 906 of 2007 as similar question of law and fact arises in all these cases. For the sake of convenience, we have taken the facts from C.W.P. No. 15959 of 2006.

The petitioners have prayed for quashing the impugned order dated 4.9.2006 vide which the Director Elementary Education, Haryana, has intimated to the District Elementary Education Officers in the State on the basis of information gathered from the National Council of Teachers Education, New Delhi (hereinafter referred to as `NCTE') that Elementary Teachers Training (ETT) Diploma from J&K is not recognized by NCTE. Hence, it is not equivalent to two years D.Ed. Course of Haryana State. The petitioners have also prayed that directions be issued to the respondents to consider the candidature of the petitioners for selection and appointment against the posts of JBT Teachers which were advertised vide advertisement dated 20.7.2006.

The Department of Education sent a requisition to the Haryana Staff Selection Commission for filling various posts including 3483 posts of JBT Teachers

and in pursuance to the requisition the Haryana Staff Selection Commission issued advertisement on 20.7.2006 inviting applications for the aforementioned posts. The essential qualification for the post of JBT Teacher was as under:-

i) Graduate with English as one of the optional/elective subject.

ii) Passed Two Year JBT Course or D.Ed. Training Course from the Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behaviour of child upto the age of 12 years.

iii) Candidates who have already done JBT/D.Ed. on the basis of 10+2 minimum educational qualification are also eligible to apply.

iv) Knowledge of Hindi upto Matric standard.

The petitioners who had the requisite qualification as they had passed their 10+2 examination and had also undergone two years diploma in ETT from the Jammu & Kashmir State Board of School Education applied for the posts of JBT Teachers. However, their applications for the posts of JBT Teachers were not considered in view of the letter dated 4.9.2006 which has been impugned in these writ petitions.

It has been submitted by the counsel for the petitioners that the J&K State Board of School Education has been established by the J&K School Education Act,1975 and as such the J&K State Board of School Education is the creation of the State Legislature. Learned counsel have argued that as per instructions issued by the Haryana Government on 18.3.1975, the relevant extract of which is reproduced hereunder:-

"i) Those degrees or diplomas etc. which are recognized by Government of India, those shall be deemed to be recognized by Government of Haryana also.

ii) Those degrees and diplomas etc. which have been awarded by recognized Universities and by the Boards established by State Govt. of High/Higher Secondary, those will be recognized ipso fact."

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shall be deemed to be recognized by the Government of Haryana also.

Learned counsel have also relied upon instructions dated 2.11.1999 which have been annexed as Annexure P-6 issued by the Government of Haryana by which degrees/diplomas/certificates examinations which are recognized by the Kurukshetra University, Kurukshetra, Maharishi Dayanand University, Rohtak, Guru Jambheshwar University, Hisar, Haryana Agriculture University, Hisar, N.D.R.I. Karnal, Board of School Education, Haryana, Bhiwani, State Board of Technical Education, Haryana, have been recognized in the State of Haryana for admission and recruitment purposes. The instructions dated 2.11.1999 are reproduced as under:-

> *"i) that the degrees/diplomas/certificates examinations recognized by the Kurukshetra University, Kurukshetra, Maharishi Dayanand University, Rohtak, Guru Jambheshwar University, Hisar, Haryana Agriculture University, Hisar, N.D.R.I. Karnal, Board of School Education, Haryana, Bhiwani, State Board of Technical Education, Haryana would stand recognized in the State of Haryana for admission and recruitment purposes.*
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> *ii) The Teacher Training courses recognized by the National Council for Teacher Education (NCTE), New Delhi would also stand recognized in the State of Haryana for the purposes.*
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> *Iii) All examinations of Foreign Universities/ Boards/Examinations Bodies, which have been recognized, by Association of Indian Universities and the University Grants Commission (UGC), New Delhi be recognized.*
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> *iv) The Medical qualifications of all the statutory institutes/universities recognized by the Medical Council of India be recognized. The LL.B degree of statutory institutes/universities recognized by Bar Council of India be recognized. The Diploma in Pharmacy course conducted by Board of Technical Education and Universities in India recognized by Pharmacy Council of India be recognized. Technical degrees/diplomas recognized by All India Council for Technical Education would also be recognized, if the*

examination is conducted by the approved university/Board.

v) While imparting recognition/equivalence to any examination in the State of Haryana for the purposes of admissions/recruitment, the opinion of the State Universities, School Education Board or the Technical Education Board, as the case may be would be sought."

Learned counsel have also argued that Shri Vikas Kadiyan, one of the candidates, had addressed a letter to the Ministry of Human Resource Development seeking information as to whether the diploma of J&K State Board of School Education is recognized for the purposes of employment and higher education. In response to this letter, the Director of Secondary Education in the Ministry of Human Resource Development had informed as follows:-

"It is stated that the certificate and diploma issued by the J&K Board of School Education, Jammu/Sri Nagar is valid and as the said Board is a recognized/approved Board of the Government of India for conducting examinations at school levels and the certificates/marks-sheets issued by them are also valid for job in Govt. offices/Departments. The Certificate/ Mark-sheets submitted by you, are therefore, valid documents for appointment to any post in Govt. offices/Deptts."

The learned counsel have also referred to Annexure P-14 which is a list of Boards of School Education recognized by the Council of Boards of School Education in India and at item No.13 the J&K State Board of School Education, Srinagar, has duly been mentioned.

Counsel for the petitioners have relied on the judgment in ***Manoj Kumar and others v. State of Haryana and others*** reported as 2007 (1) SCT 612 wherein it has been held that as per instructions issued by the respondent-State Government on 18.3.1975 all those degrees and diplomas which have been awarded by the recognized Universities and by the Boards established by the State Government for High/Higher Secondary, were *ipso facto* recognized. It has also been provided that those degrees and diplomas which are recognized by the Government of India are deemed to be recognized by the Government of Haryana also.

Counsel for the petitioners have also relied on the judgment-

Annexure P7 passed in C.W.P. No. 212 of 2004 (***Sandeep and others v. State of Haryana and others)*** in which a Division Bench of this Court has held that the degrees/diplomas/certificates which are recognized by the Government of India shall be deemed to be recognized by the Government of Haryana also as per the letter dated 18.3.1975.

Counsel for the petitioners have also argued that their applications have been rejected vide Annexure P-9 on the ground that ETT Diploma from J&K State Board of School Education is not recognized by the NCTE whereas according to the learned counsel this Act is not applicable to the State of J&K. Counsel for the petitioners have also contended that the curriculum of the two years Diploma in ETT from J&K State Board of School Education is absolutely the same as the curriculum of ETT Course conducted in the State of Haryana.

On the basis of the above, counsel for the petitioners have argued that the de-recognition of the diplomas issued by the J&K State Board of School Education would be violative of the instructions dated 18.3.1975 as well as the instructions dated 2.11.1999.

A written statement has been filed on behalf of respondent Nos. 1 and 2 in C.W.P. No. 15208 of 2006 (***Subhash Chander and others v. The State of Haryana and others***) and the counsel for the State submits that this reply is being adopted by the respondents in all the other writ petitions. It has been averred in the written statement that vide Annexure P-9 it has been decided not to recognize the two year Diploma in ETT from J&K State Board of School Education as equivalent to two year D.Ed. Course of Haryana State. It has also been averred that the Diploma in ETT from J&K State Board of School Education is not recognized by the NCTE, New Delhi. Hence, the petitioners are not eligible for the posts of JBT Teachers. It is further the case of the respondents that the J&K State Board of School Education is not available on the website and, hence, the Diploma acquired by the petitioners from the J&K State Board of School Education cannot be held to be equivalent to two years D.Ed. Course of the Haryana State.

We have heard the learned counsel for the petitioners as well as the respondents at length.

A perusal of instructions dated 18.3.1975 issued by the Haryana Government clearly shows that degrees/diplomas which are

recognized by the Government of India shall be recognized by the Government of Haryana also. In the present case, the Department of Secondary and Higher Education under the Ministry of Human Resource Development of Government of India has duly recognized and approved diplomas issued by the J&K State Board of School Education for the purposes of higher education for conducting examination at school levels and also valid for jobs in Government offices/Departments. Further, as per the aforementioned instructions the diplomas which have been awarded by the recognized Universities and by Boards established by the State Governments would also be recognized *ipso facto*.

Apart from the above, a perusal of the instructions dated 2.11.1999 also shows that degrees/diplomas/certificates examinations which are recognized by the Board of School Education, Haryana, would be recognized in the State of Haryana for admission and recruitment purposes. It is not in dispute that the diplomas/certificates awarded by the J&K State Board of School Education are recognized by the Haryana School Education Board and, therefore, the letter dated 2.11.1999 also supports the case of the petitioners.

In the present case, the J&K State Board of School Education is a creation of the legislature and thereafter the J&K School Education Act,1975 has come into force. Thus, on both these counts the two year Diploma in ETT from J&K State Board of School Education acquired by the petitioners has to be considered to be valid for the purposes of employment.

The argument of the learned State counsel that only those Certificates/Courses are accepted by the Haryana State which are from an institution approved by the Haryana Government cannot be accepted as it would amount to keeping out all eligible candidates merely because they have obtained their qualification from a University or Institution outside the State of Haryana.

The argument of the counsel for the State that ETT Diploma from J&K State Board of School Education is not recognized by NCTE also has no force as a perusal of Section 1(2) of the National Council for Teacher Education Act,1993 itself shows that it extends to the whole of India except the State of Jammu &Kashmir. Thus, the rejection of the

applications of the petitioners on the ground that it is not recognized by NCTE is wholly against the provisions of the Act itself which is not applicable to the State of J&K and also shows non-application of mind by the respondents.

Apart from the above, the J&K State Board of School Education have clearly indicated in their letter-Annexure P2 that the examinations set by their Board are recognized by all the School Boards and Secondary School Boards in the country including Haryana Board of School Education etc. It has also been averred that the ETT Course is broadly based on the curriculum framework proposed by the NCTE.

A perusal of the above letter-Annexure P2, thus, shows that the two years ETT Course was duly recognized by the Haryana Board of School Education and the curriculum was the same as adopted by NCTE. The respondents have not denied the averments made in the writ petition regarding the assertion made by the petitioners in this respect in their written statement.

A perusal of the judgment-Annexure P7 also shows that the degrees/ diplomas and certificates recognized by the Government of India would also be deemed to be recognized in the State of Haryana as per letter dated 18.3.1975 for the purposes of admission and employment/recruitment.

In view of the above, we quash Annexure P-9 dated 4.9.2006 and allow the writ petitions and hold that the two years diploma in Elementary Teachers Training acquired by the petitioners from the J&K State Board of School Education is valid and shall be recognized in the State of Haryana for the purposes of admission as well as recruitment. As all the petitioners had been allowed to be provisionally interviewed, therefore, now their results shall be declared. The respondents shall be at liberty to scrutinize the eligibility of all the candidates subject to the candidates satisfying the other eligibility conditions as contemplated in the advertisement dated 20.7.2006.

Some of the petitioners in these bunch of writ petitions are working as Guest Faculty Teachers and as their services were sought to be terminated, they obtained stay from this Court that their services be not terminated on the ground that they had passed the diploma from J&K State Board of School Education. The petitioners pray that their services be not

terminated now in view of order-Annexure P-9 having been quashed and as they have been found eligible for the said post.

In this regard, it is made clear that such Guest Faculty Teachers would be allowed to continue till the regularly selected persons are appointed in pursuance to advertisement dated 20.7.2006.

(ASHUTOSH MOHUNTA)
JUDGE

1.3.2007 **(R.S.MADAN)**
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